

## **FACTSHEET**

**TITLE:** **STREET VACATION NO. 03023**, requested by Joyce and Henkle Company, to vacate the north 10 feet of "Q" Street right-of-way adjacent to Lots 7, 8 and 9, Block 30, Original Plat of Lincoln, generally located at 8<sup>th</sup> & "Q" Streets.

**STAFF RECOMMENDATION:** A finding that the proposed street vacation **is not** in conformance with the Comprehensive Plan.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 03/03/04; 04/14/04; 05/26/04; 06/23/04; and 08/04/04  
Administrative Action: 08/04/04

**RECOMMENDATION:** A finding of conformance with the Comprehensive Plan and approval, with conditions, as amended (7-2: Carroll, Taylor, Sunderman, Larson, Pearson, Krieser and Bills-Strand voting 'yes'; Carlson and Marvin voting 'no').

### **FINDINGS OF FACT:**

1. The purpose of this request to vacate the north 10' of "Q" Street right-of-way adjacent to a business is to allow outdoor display of large retail items, special events and company demonstrations. A portion of the area would remain as-is with no changes in appearance or function.
2. The staff recommendation to find that the proposed street vacation **is not** in conformance with the Comprehensive Plan is based upon the "Analysis" as set forth on p.3-4, concluding that vacating this portion of right-of-way is contrary to the Comprehensive Plan and City policy with regard to the Haymarket area. The proposed uses could be allowed by a "permit for occupancy above or below public property," rather than vacation of the public right-of-way.
3. On February 19, 2004, the Historic Preservation Commission also reviewed this street vacation request and recommended that it be denied (See p.13).
4. The petitioner's testimony is found on p.6 and 7. The Tool House has operated in the Haymarket area for 27 years and the petitioner is requesting to own and use this right-of-way. The petitioner believes that The Tool House is entitled to use this area as much as the right-of-way recently vacated and granted to the Haymarket parking garage. The purpose of the request is to use the right-of-way to demo a trailer.
5. There was no testimony in opposition.
6. Testimony in support of the staff recommendation by Rick Peo of the City Law Department is found on p.8, stating that the public right-of-way is designed to handle either pedestrian or vehicle traffic. The goal of the City is to be restrictive on the use of public space. The street is for traffic and there should not be permanent exceptions for a commercial use, except as a part of development agreements by which proposed improvements are carefully reviewed and benefits to the City are considerable.
7. On August 4, 2004, the Planning Commission disagreed with the staff recommendation and voted 7-2 to find the proposed street vacation to be in conformance with the Comprehensive Plan, upon the following conditions:
  - 1.1 The provisions of Chapter 14.20 of the Lincoln Municipal Code must be met.
  - 1.2 Restrict the future use of the property to prohibit parking within the entire vacated area.
  - 1.3 The size of the building envelope shall not be increased as a result of this vacation. (\*\*Per Planning Commission, 08/04/04\*\*)
  - 1.4 The City shall retain ownership of the vacated property with an easement granted to the petitioner for use of the vacated property for purposes of display only. (\*\*Per Planning Commission, 08/04/04\*\*)
8. The appraisal submitted by the City Real Estate Division is found on p.17, recommending that if the area is vacated, the property be sold to the abutting property owner for \$3,375.00. The Planning Commission recommended that the City retain ownership and grant the petitioner an easement as set forth in Condition #1.4.
8. The City Clerk has determined that the provisions of Chapter 14.20 of the Lincoln Municipal Code have been satisfied.

**FACTSHEET PREPARED BY:** Jean L. Walker

**REVIEWED BY:** \_\_\_\_\_

**REFERENCE NUMBER:** FS\CC\2004\SAV.03023

**DATE:** October 25, 2004

**DATE:** October 25, 2004

# LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for August 4, 2004 PLANNING COMMISSION MEETING

This is a revised staff report.

**\*\*As Revised and Recommended for a Finding of Conformance with the Comprehensive Plan by Planning Commission, August 4, 2004\*\***

**P.A.S.:** Street and Alley Vacation #03023

**PROPOSAL:** Vacate the north 10' of "Q" Street right-of-way adjacent to Lots 7, 8, and 9, Block 30, Original Plat of Lincoln.

**LOCATION:** 8<sup>th</sup> and "Q" Streets.

**LAND AREA:** 1,500 square feet, more or less.

**CONCLUSION:** Vacating this portion of right-of-way does not conform to the Comprehensive Plan. The vacation of this property is contrary to the Comprehensive Plan and city policy with regard to the Haymarket area. The proposed uses could likely be allowed by license to use, rather than vacation of, public right-of-way.

<b><u>RECOMMENDATION:</u></b>	Does Not Conform to the Comprehensive Plan
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## **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** The north 10 feet of "Q" Street right-of-way adjacent to Lots 7, 8, and 9, Block 30, Original Lincoln, located in the SE 1/4 of Section 23 T10N R6E, Lancaster County, Nebraska.

## **SURROUNDING LAND USE AND ZONING:**

North:	Commercial	B-4 Lincoln Center Business District
South:	Commercial	B-4 Lincoln Center Business District
East:	Commercial	B-4 Lincoln Center Business District
West:	Commercial	B-4 Lincoln Center Business District

## **COMPREHENSIVE PLAN SPECIFICATIONS:**

The Land Use Plan shows the area around this vacation as Commercial. (F 25)

**TRAFFIC ANALYSIS:** There are several on-street parking stalls along "Q" Street adjacent to this property. The Haymarket parking garage is located immediately adjacent to the east, and a public surface parking lot is located approximately 1 block west. 8th and "Q" Streets are designated as Local streets both now and in the future. (E 49, F 103) However, because they are within the Haymarket, traffic is often steady and slow moving on these streets.

**Local Streets:** These are composed of all lower order facilities that essentially serve as a conduit between abutting properties and higher order streets. Local streets provide the lowest level of mobility and generally exhibit the lowest traffic volumes. (F 105)

**AESTHETIC CONSIDERATIONS:** Petitioner has not submitted a design layout for the proposed use of the right-of-way. It appears as though the proposed use would be similar to a sidewalk café situation, although the proposed use would be temporary rather than permanent.

**ALTERNATIVE USES:** The proposed occasional use of the area could likely be allowed through a permit to use the public right-of-way.

**ANALYSIS:**

1. This is a petition to vacate the north 10' of "Q" Street right-of-way adjacent to a business for the purpose of allowing outdoor display of large retail items, special events, and company demonstrations. A portion of the area would remain as-is with no changes in appearance or function.
2. Several visits to this site revealed vehicles parked within the public right-of-way in front of this business. This particular area is not paved, but has a rock surface; the remainder of the right-of-way is paved sidewalk, as shown in the attached photographs. The attached Lancaster County Assessor website photograph of this property shows two vehicles parked in the right-of-way. The attached aerial photograph of this property shows one vehicle parked in the right-of-way.
3. According to the Police Department, employees of this business have been parking in this location for years, and the property owner has asserted this area is his private property. However, maps of City right-of-way indicate the entire area up to the building face is public right-of-way. The Police Department has issued citations to motorists for parking in this area.
4. In the time since the previous public hearing on this petition, Petitioner has revised his plans for the area and no longer proposes to use it for parking, but rather as space to display retail merchandise or for special events. However, if the right-of-way were vacated and sold, there should be a restriction placed on the property prohibiting its use for parking.
5. The Public Works and Utilities and Urban Development Departments oppose this request because the entire area between the building and street is paved public sidewalk, with the exception of this area. Existing conditions already present conflicts between vehicles and pedestrians because vehicles must travel on the sidewalk to park here. Future use for display purposes could continue to impede pedestrian movement, and may create safety hazards depending upon the nature of the items displayed. However, a permit to use the right-of-way may provide the flexibility the Petitioner needs for display purposes, and the ability for the City to limit the manner in which the right-of-way is used. Also, a license may be revoked should the area be needed for a public purpose.
6. The Historic Preservation Committee discussed the original petition at their February 19, 2004 meeting. They voted 4-0 to recommend this petition be denied, citing the availability of a permit for the handicap ramp, and the importance of the area between curbs and building faces to pedestrians in this area. A memo from Historic Preservation Planner Ed Zimmer is attached briefly describing their discussion. The Historic Preservation Commission has not reconsidered this petition in light of the revised proposed use.
7. If this vacation is approved, several City departments are concerned other businesses in the Downtown area may seek similar vacations of irregular portions of right-of-way for private

use. Setting a precedent in this case may result in additional conflicts between property users and pedestrians throughout Downtown.

8. Alltel and LES either have facilities within or near this area. If this area is vacated, easements should be retained for existing and future facilities, as well as public access.
9. Should the Planning Commission choose to find this request conforms to the Comprehensive Plan, Planning Staff recommends the following conditions.

**BEFORE THE VACATION REQUEST IS SCHEDULED ON THE CITY COUNCIL AGENDA  
THE FOLLOWING MUST BE COMPLETED:**

- 1.1 The provisions of Chapter 14.20 of the Lincoln Municipal Code must be met.
- 1.2 Restrict the future use of the property to prohibit parking within the entire vacated area.
- 1.3 The size of the building envelope shall not be increased as a result of this vacation. (\*\*Per Planning Commission, 08/04/04\*\*)
- 1.4 The City shall retain ownership of the vacated property with an easement granted to the petitioner for use of the vacated property for purposes of display only. (\*\*Per Planning Commission, 08/04/04\*\*)

Prepared by:

Greg Czaplewski  
441-7620, gczaplewski@lincoln.ne.gov

**Date:** July 26, 2004

**Petitioner,** Joyce and Henkle Company  
**Owner,** W. E. Henkle  
**and** 7901 Northshore Drive  
**Contact:** Lincoln, NE 68516  
488.0685

# STREET & ALLEY VACATION NO. 03023

## **PUBLIC HEARING BEFORE PLANNING COMMISSION:**

March 3, 2004

Members present: Carlson, Marvin, Carroll, Sunderman, Krieser, Taylor, Larson and Bills-Strand; Pearson absent.

Staff recommendation: A finding that the proposal is not in conformance with the Comprehensive Plan.

Ex Parte Communications: None.

Greg Czaplewski of Planning staff submitted an electronic mail message from the applicant requesting indefinite postponement in order to meet with the city agencies. Czaplewski advised that he also spoke with the applicant and it was agreed to request a deferral until April 14, 2004, as opposed to indefinite.

The applicant was not present.

There was no testimony in opposition.

Carlson moved to defer, with continued public hearing and administrative action scheduled for April 14, 2004, seconded by Taylor and carried 8-0: Carlson, Marvin, Carroll, Sunderman, Krieser, Taylor, Larson and Bills-Strand voting 'yes'; Pearson absent.

## **CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

April 14, 2004

Members present: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand.

Staff recommendation: Deferral until May 26, 2004, at the request of the applicant.

Ex Parte Communications: None.

Carroll moved to defer, with continued public hearing and administrative action scheduled for May 26, 2004, seconded by Carlson and carried 9-0: Larson, Marvin, Carroll, Taylor, Sunderman, Carlson, Krieser, Pearson and Bills-Strand voting 'yes'.

There was no public testimony.

## **CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 26, 2004

Members present: Marvin, Krieser, Carlson, Larson, Sunderman, Pearson, Carroll and Bills-Strand; Taylor absent.

Staff recommendation: A finding that the vacation does not conform to the Comprehensive Plan.

Ex Parte Communications: None.

Proponents

**1. Paul Ahrendt of The Tool House**, the petitioner, stated that he wants to do what the city was able to do on the Haymarket parking garage. He wants to use this right-of-way in a manner to sell his product which is no different than a restaurant or what the city is doing with the tenants in the parking garage. He is requesting postponement to learn how to accomplish what the city did with the Haymarket parking garage. He is not asking for any favors. He is just asking for the fair treatment which has just been approved.

Carlson moved to defer with public hearing and administrative action on June 23, 2004, seconded by Carroll and carried 8-0: Marvin, Krieser, Carlson, Larson, Sunderman, Pearson, Carroll and Bills-Strand voting 'yes'; Taylor absent.

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

June 23, 2004

Members present: Pearson, Carroll, Marvin, Taylor, Krieser, Larson, Sunderman, Carlson and Bills-Strand.

Staff recommendation: A finding that the street vacation is not in conformance with the Comprehensive Plan.

Ex Parte Communications. None.

The Clerk announced that the applicant has submitted a request for additional deferral until August 4, 2004.

Taylor moved to defer, with continued public hearing and administrative action scheduled for August 4, 2004, seconded by Krieser and carried 9-0: Pearson, Carroll, Marvin, Taylor, Krieser, Larson, Sunderman, Carlson and Bills-Strand voting 'yes'.

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

August 4, 2004

Members present: Carlson, Carroll, Marvin, Taylor, Sunderman, Larson, Pearson, Krieser and Bills-Strand.

Staff recommendation: A finding that the vacation is not in conformance with the Comprehensive Plan.

Ex Parte Communications: None.

## Proponents

**1. Paul Ahrendt**, 940 Old Cheney Road, and owner of the Tool House that occupies the property, testified in support. This business has operated in this area for 27 years. The purpose of this request is to be able to own and use this right-of-way. Ahrendt believes that this entity is entitled to use this area as much as the vacated right-of-way granted to the Haymarket parking garage recently. He believes his request should be treated the same way. However, Ahrendt learned quickly that he couldn't be treated the same as the city because the law doesn't allow it. The purpose of this request is to use the right-of-way to demo a trailer. Also, from time to time, the Tool House will have events and they use that area to move people around. The important property is the property that is in front of their east building; the second important property is the property in front of their dock; and the third important property is maintained as a sidewalk and leased from the city. Ahrendt had been told he could get a permit for this but no one with the city has been able to find a permit that would let them use this property for weeks or months at a time.

There was no testimony in opposition.

## Staff questions

Carlson noted that the staff analysis does talk about a permit to use the right-of-way. What is the problem? Greg Czaplewski of Planning staff stated that based on the revised proposal to use this right-of-way area, they are suggesting a couple of different uses. To demo new products or to do some kind of vendor showing would not be allowed under any of the existing license provisions because any of these uses would have to cross the public sidewalk. There may be additional maneuvering space needed that would cause conflict with pedestrians. If they wanted to use the area as a sidewalk sale area with tables and loose merchandise, that type of permit would be available through the City Clerk's office. A sidewalk café type license would not work in this situation.

Ahrendt pointed out that the distance between the area that they are asking to be vacated to the curb is the same amount of distance as the parking garage distance previously approved. They could have trucks that back into the dock now that will be 10' past the curb line. From a business owner standpoint, he does not understand the issue of safety when the other right-of-way was vacated.

Carroll inquired about vacating the right-of-way right in front of the dock area only. Czaplewski indicated that the staff position would be the same if their intention is to park vehicles in that area. Carroll believes there are probably trucks parking on that dock area to the street now when they are loading or unloading at the building. Czaplewski did not know how they actually use the dock space. Carroll inquired whether it is illegal for them to park on the 10' right-of-way section. Czaplewski stated that it is illegal, and he understands that the Police Department has issued citations to vehicles that have been parking in this 10' area.

Pearson wondered whether the staff would support the vacation with a restriction prohibiting the use for parking. Czaplewski stated that the staff's preference would be not to vacate any of the area.

Taylor asked whether it would be possible to vacate the area between the sidewalk and the building, leaving the sidewalk for pedestrian traffic, but utilizing the area between the sidewalk and the building. Czaplewski believes this would be the portion that is not paved now. The sidewalk in

this area extends from the face of the building to the curb. The dock area is between the east and west buildings. It is public right-of-way up to the face of the building. They can be ticketed for obstructing the private right-of-way just like a car that hangs over the sidewalk in a residential area.

Carlson believes there are several examples of circumstances in the Haymarket where business owners have needed to make use of the right-of-way where we have made accommodations without vacating the property. He believes there are some additional alternatives. Aren't there circumstances where we have not sold the land? Czaplewski acknowledged that initially, the staff thought there were some potential avenues for licenses or permits to use the right-of-way available, but the proposed use would not fall into any of the license provisions available. It has been discovered that there are no available avenues for the kind of use they want to do; that is, to extend the floor area of their shop for continuous display of large items that might not display well inside the store, or to have vendor trucks pull up and demonstrate products.

Taylor likened it to a sidewalk sale. Czaplewski did not know what authority there is for sidewalk sales, and Mr. Ahrendt can check with the City Clerk to see if his proposed use falls under that definition.

Rick Peo of the City Law Department cautioned that the public right-of-way is designed to handle either pedestrian or vehicle traffic. The city has two different types of ordinances that permit occupancy of public space--above or below the surface and underground cable. Neither of these interfere with the use of the street. Unfortunately, some exceptions have been granted, primarily for non-commercial activities, such as a stairway from second floor to the street. The only real commercial exception is sidewalk cafés, and that is specifically authorized by state law. Our goal for the city is to be restrictive on the use of public space. The street is for traffic and there should not be permanent exceptions for a commercial use.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

August 4, 2004

Pearson moved to find the proposed street vacation to be in conformance with the Comprehensive Plan and to approve the vacation of the street with the restriction that the property is not used for parking, seconded by Taylor.

Pearson commented that this is a business that has been in the Haymarket longer than the Haymarket has been there. A tool company probably would not locate in this area today. But they are there now and that's terrific. We are not talking about a driveway or a street, but the area between the public sidewalk and the building. We are not talking about the sidewalk or the street. We are talking about the area behind that where we allow people to sit at tables and drink coffee and display retail. She thinks it is a great business and this is one of the multi-purpose things that we have in the Haymarket.



Larson agreed. We need to give some consideration to the fact that this business has been there all this time and it is a real asset to the Haymarket neighborhood. To deny this would really restrict the use of that property for this enterprise. We need to bend a little bit on this one. Taylor believes that safety in this situation is a very minor issue, and he does not believe making an exception is going to cause an outcry from others for the same exception because this is a very unique situation.

Bills-Strand wondered whether this 10' vacation would increase the size of the building envelope. Peo suggested that the city could restrict it in the deed, but there are no setbacks for buildings so they could build up to the property line. Bills-Strand stated that she does not want to increase the size of the building envelope without putting a caveat on the deed.

Bills-Strand moved to amend that this vacation does not increase the size of the building envelope and that the vacated property is to be used for purposes of display only, seconded by Pearson and carried 9-0: Carlson, Carroll, Marvin, Taylor, Sunderman, Larson, Pearson, Krieser and Bills-Strand voting 'yes'.

Carlson stated that he will vote against the motion. He believes there is substantial argument for setting a precedent here. There have been many circumstances in the past, such as when Lazlo's wanted to put in a fire escape. There were months of discussion and he believes the city ended up renting the property to them. There is a handicap ramp near Ruby Tuesday's with a similar circumstance. He will lean on the report of the Historic Preservation Commission. Yes, the business has been here since before the Haymarket, however, there are different circumstances now that the Haymarket is there. We have created a circumstance where pedestrian motion and access is important. Maybe the city has been derelict in getting the paving in and that makes it look like it's not a big deal. We saw a special circumstance with the parking garage where it was designed to accommodate that café use. It sets a bad precedent, and it is not in the best interest of the pedestrian motion.

Carroll agrees that it is a bad precedent to set. Yes, the owner is a very good owner and person, but we should not give away the right-of-way. He agreed that the city, in negotiating the agreement on the parking garage, gave away something they should not have, but we do not need to start setting a precedent in giving away things the city acquired a long time ago. He is hopeful that there is some kind of permit to allow the applicant to use the space.

Marvin agreed. If we give away right-of-way, it should be for a public benefit as opposed to a commercial benefit.

Larson recognizes that the dining areas are allowed by state law, but he thinks it looks foolish to compress a sidewalk there by the Fireworks and Lazlo's restaurants to allow sidewalk dining but not allow this business to use the public right-of-way. He believes it is inconsistent.

Pearson does not understand what Carlson meant about the exception for Ruby Tuesday's. Carlson believes it was an area on the north where a handicap ramp was accommodated.

Bills-Strand believes the difference with the sidewalk café's is that the city did not sell the right-of-way to them. It is leased to them for that purpose rather than giving away the right-of-way. Peo agreed. The sidewalk café or any license permits use of the right-of-way and that permit can be revoked at any time that the city feels the right-of-way is needed back. In fact, the city only gave the parking garage an easement as opposed to selling the land.

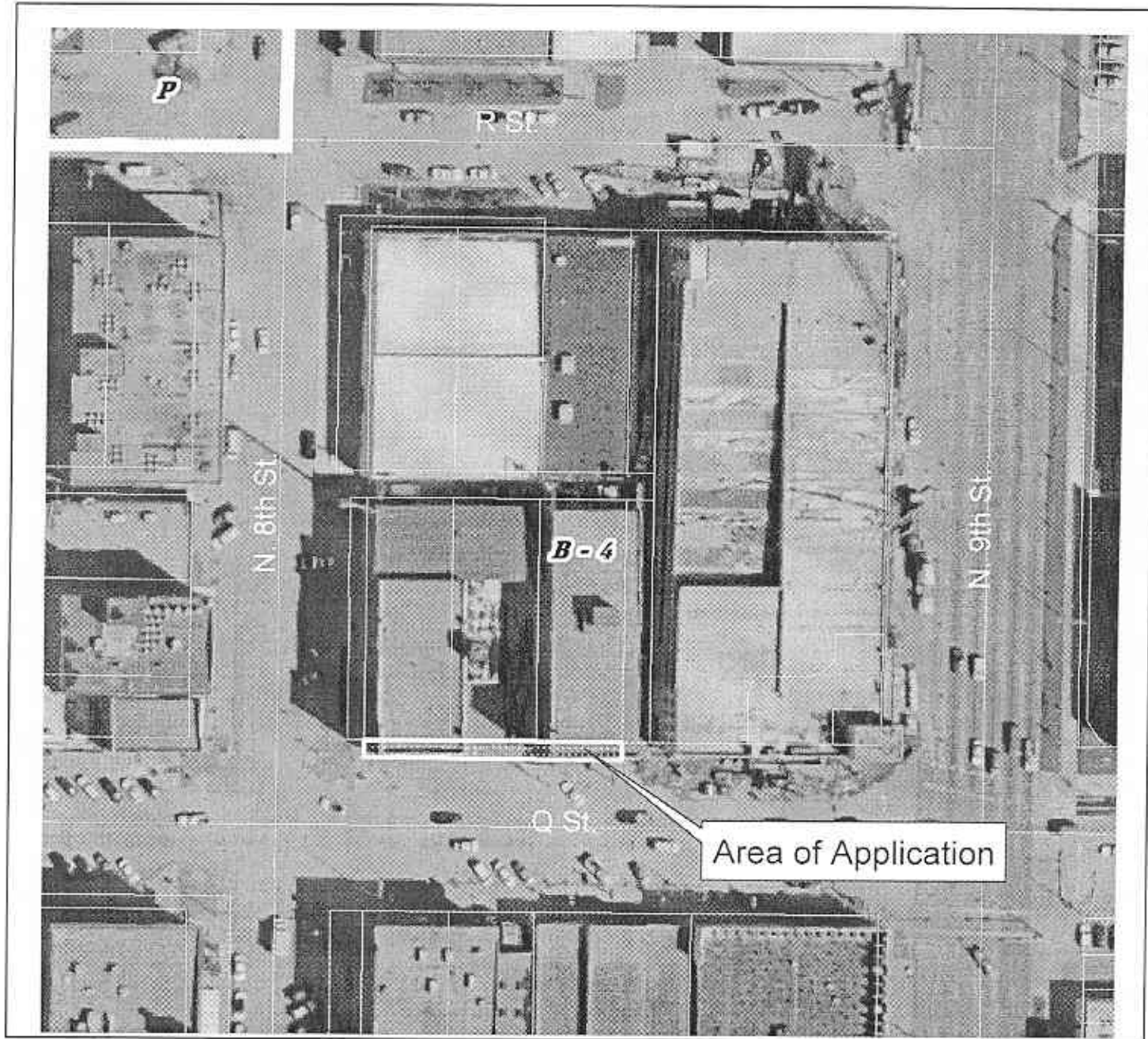
Bills-Strand inquired whether there is a way to lease or rent to accommodate a business. Peo responded that any street that is vacated is vacated upon condition that the city retains title, and then the city determines whether to sell the property. An easement could be granted as opposed to conveying fee title. It would be nice to condition that it not be sold. If we are only looking at an easement it should be valued as such.

Pearson inquired about the dock area being used in other retail areas that go right up to the sidewalk. Peo believes a lot of the businesses own the dock. A lot of the dock is owned privately but some of them might have sidewalks to them. There are buildings that encroach into the public right-of-way.

Carroll moved to amend that the vacated property not be sold and used for easement purposes only, seconded by Marvin and carried 9-0: Carlson, Carroll, Marvin, Taylor, Sunderman, Larson, Pearson, Krieser and Bills-Strand voting 'yes'.

Marvin thinks there is a big difference between a sidewalk café and someone demonstrating power tools on a curb in a mostly retail area.

Motion for a finding of conformance with the Comprehensive Plan and to approve the vacation, as amended, carried 7-2: Carroll, Taylor, Sunderman, Larson, Pearson, Krieser and Bills-Strand voting 'yes'; Carlson and Marvin voting 'no'. This is a recommendation to the City Council.



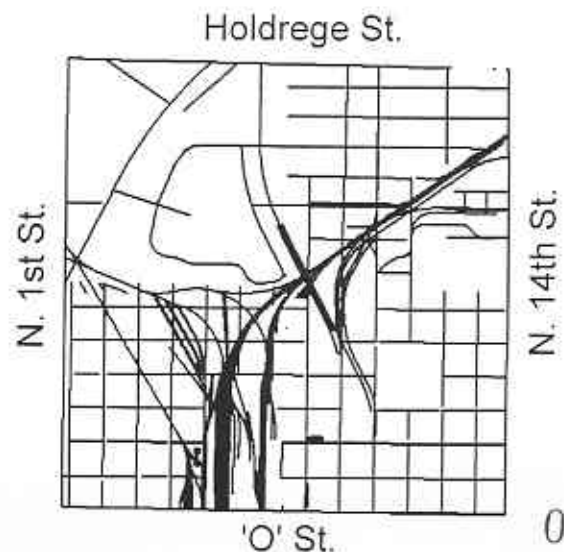
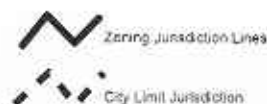
2002 aerial

## Street & Alley Vacation #03023 N. 8th & Q Street

### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 23 T10N R6E



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## Proposal for Vacation Request #03023

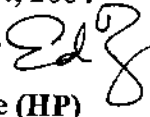
**Legal Description:** The north 10 feet of "Q" Street right-of-way adjacent to Lots 7, 8, and 9, block 30, Original Lincoln, located in the SE ¼ of Section 23 T10N R6E, Lancaster County, Nebraska

The Tool House, Inc. in conjunction with Joyce and Henkle Building Company propose City vacation of above property for the following purposes.

1. In accordance with City Planning requirements and regulations set forth by the Historic Preservation Commission, the area directly in front of the East portion of the Henkle & Joyce Building, currently occupied by The Tool House, Inc. would be used for the purpose of displaying equipment that is too large to display in the window of said building. This area could be "chained" off, in order to protect the product display, maintain the integrity of the historical appearance, and prevent pedestrian traffic issues. We propose that the protective boundary (i.e. chain and post, fence, etc.) would be removable at any time. The Tool House would like to work in conjunction with the Historic Preservation Commission and members of the Historic Haymarket Association in order to comply with any and all requirements in maintaining the integrity of the property and its aesthetic value.
2. The 10' area in front of the current loading dock would be accessible to The Tool House during special events and company demonstrations, not interfering with pedestrian traffic or vehicle access to the loading dock. We propose no permanent change to the appearance of this area.
3. The 10' area in front of the West portion of the Henkle & Joyce building would remain as-is, with the understanding that The Tool House currently occupies the area below the sidewalk. Joyce & Henkle Building Co. has invested approx. \$5000 to maintain the safety and integrity of the sidewalk itself.

## PLANNING DEPARTMENT MEMO

TO: **Greg Czaplewski**  
Section: **Development Review**  
CC: **file**

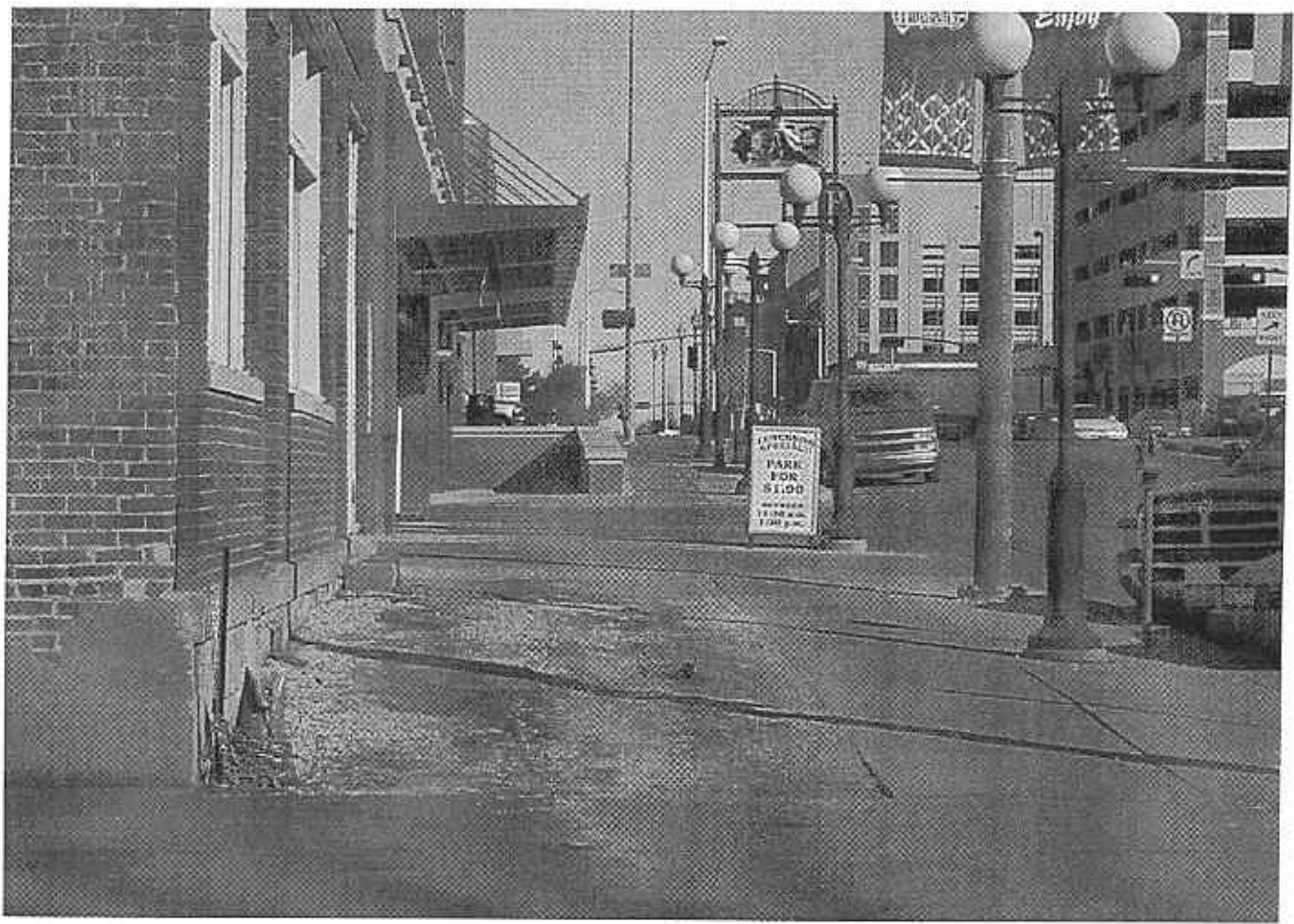
DATE: **February 24, 2004**  
FROM: **Ed Zimmer**   
Section: **Long Range (HP)**  
RE: **Historic Preservation  
Commission recommendation  
on petition to vacate Right-of-  
Way, North 8<sup>th</sup> and Q Streets**

On February 19, 2004, the Historic Preservation Commission held a regularly scheduled meeting. Among the items for hearing and action was a petition by Bill Henkle to vacate a 10 foot strip of ROW on the north side of Q Street east of N. 8<sup>th</sup> Street adjacent to "The Tool House."

Members present were Tim Francis, Bruce Helwig, Bob Ripley, and Terry Young. They reviewed the petition and discussed the request to vacate the ROW for parking and building access ramps/stairs. Members observed that ROW is commonly used in Haymarket for building access ramps under the "use of area above or below ROW" permitting procedures and a vacation was not necessary for that purpose. Comments were made that the ROW area between curbs and building faces is important for pedestrians, especially in Haymarket.

A motion was made and approved 4-0 to recommend that the petition to vacate the ROW be denied.

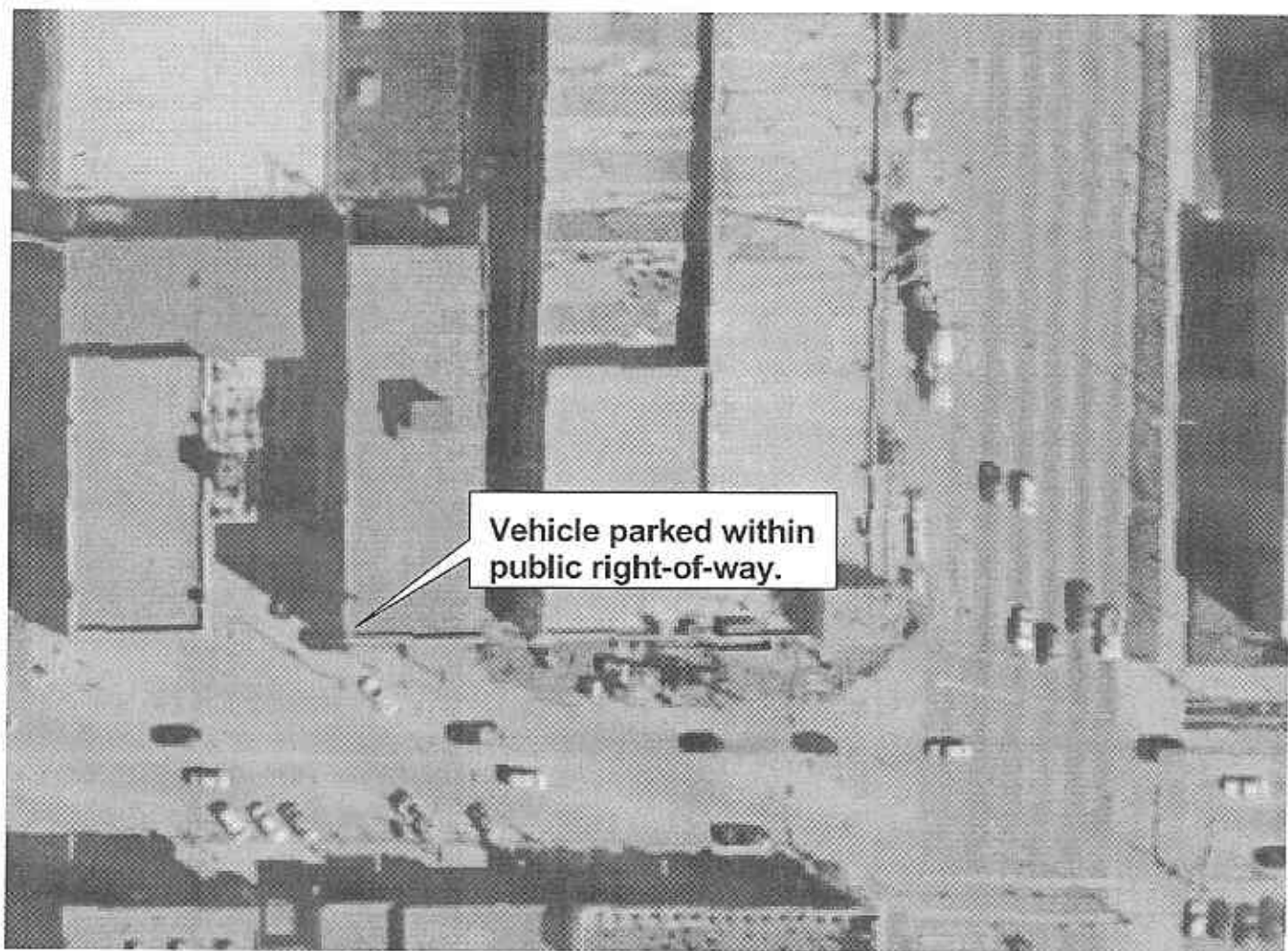
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## INTEROFFICE MEMORANDUM

TO: Mayor Seng  
& City Council Members

FROM: Clinton W. Thomas

DEPARTMENT: City Council Office

DEPARTMENT: Real Estate Division

ATTENTION:

DATE: April 13, 2004

COPIES TO: Joan Ross  
Marvin Krout  
Dana Roper  
Byron Blum

SUBJECT: Vacation of north 10 feet of Q Street  
adjacent to Lots 7, 8, & 9, Block 30,  
Original Plat  
SAV #03023

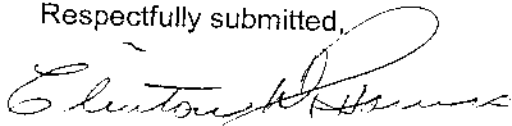
A request has been made to vacate a portion of Q Street abutting Lots 7, 8, and 9 in Block 30, the Original Plat of Lincoln. This block is the block of Q Street lying between 8<sup>th</sup> and 9<sup>th</sup> Streets and would consist of the northerly 10 feet of right-of-way on the west half of the block. The area was viewed and appears as part of the sidewalk with various surfacings in place. The westerly 1/3 is surfaced with concrete and simply appears to be the sidewalk. The middle 1/3 is surfaced with asphalt and is part of the drive leading to the dock. The east 1/3 is surfaced with crushed rock and has been used in the past as a parking area for employee vehicles. The existence of electrical utilities in the form of street lights as well as storm sewer and sanitary sewer manholes were observed in the adjacent street right-of-way lying between the area to be vacated and the curb. If the area were to be vacated, easements have been requested over the entire area for existing and future utilities.

Small, narrow strips such as this have very little value on their own, but will assume the value of the abutting property if assembled into it. In this case, the value of the abutting property is estimated in the range of \$8 to \$10 per square foot. It is expected a property owner probably would not pay over 25% to 35% of the expected value of the property in order to obtain a small parcel such as this. The retention of easements over the area would further diminish its value to an abutting property owner since it could not be built on; and, in this particular area of town does not add any benefit by providing additional set-back area. It is expected the retention of easement would tend to indicate a value at the lower end of the expected range at 25% of the abutting land value. Assuming an abutting land value of \$9 per square foot, the calculations are as follows:

$$1,500 \text{ sq. ft.} \times \$9.00/\text{sq. ft.} \times 25\% = \$3,375$$

Therefore, it is recommended, if the area be vacated, it be sold to the abutting property owner for \$3,375.

Respectfully submitted,



Clinton W. Thomas  
Certified General Appraiser #990023

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